

EXHIBIT C

NON-EXCLUSIVE LIST OF RETAINED ACTIONS

ARTICLE VI OF THE PLAN PRESERVES AND RETAINS ALL CAUSES OF ACTION NOT EXPRESSLY WAIVED, RELINQUISHED, RELEASED, COMPROMISED, OR SETTLED PURSUANT TO THE PLAN OR A FINAL ORDER. THE ATTACHED LIST IS A NONEXCLUSIVE LIST OF ENTITIES AGAINST WHOM THE DEBTOR AND THE TRUSTEE ON BEHALF OF THE ESTATE, PRE- AND POST-CONFIRMATION OF THE PLAN, AS APPLICABLE, SHALL RETAIN AND PROSECUTE CAUSES OF ACTION. FAILURE TO INCLUDE AN ENTITY ON THE ATTACHED LIST SHALL NOT CONSTITUTE A RELEASE OR WAIVER OF OR ESTOP THE TRUSTEE FROM PURSUING A RETAINED ACTION AGAINST SUCH ENTITY AND SHALL NOT INDICATE THAT CAUSES OF ACTION AGAINST SUCH ENTITY HAVE NOT BEEN RETAINED.

THE DEBTOR AND THE TRUSTEE ON BEHALF OF THE ESTATE, PRE- AND POST- CONFIRMATION OF THE PLAN, AS APPLICABLE, RETAIN ALL CAUSES OF ACTION OF ANY KIND WHATSOEVER AGAINST ALL ENTITIES NOT EXPRESSLY RELEASED PURSUANT TO THE PLAN OR A FINAL ORDER IN THEIR CAPACITIES AS SUCH.

FOR AVOIDANCE OF DOUBT, UNLESS EXPRESSLY RELEASED PURSUANT TO THE PLAN OR A FINAL ORDER IN THEIR CAPACITIES AS SUCH, ENTITIES NOT LISTED ON THE ATTACHED LIST ARE NOT RELEASED AND THE DEBTOR AND THE TRUSTEE ON BEHALF OF THE ESTATE, PRE- AND POST-CONFIRMATION OF THE PLAN, AS APPLICABLE, EXPRESSLY RETAIN ALL CAUSES OF ACTION OF ANY KIND WHATSOEVER AGAINST ALL SUCH ENTITIES, INCLUDING WITHOUT LIMITATION THE CATEGORIES OF CAUSES OF ACTION SET FORTH BELOW.

FAILURE TO ATTRIBUTE ANY SPECIFIC CAUSE OF ACTION TO A PARTICULAR ENTITY ON THE ATTACHED LIST SHALL NOT UNDER ANY CIRCUMSTANCE BE INTERPRETED TO MEAN THAT SUCH CAUSE OF ACTION IS NOT RETAINED AGAINST SUCH ENTITY. ALL POSSIBLE CAUSES OF ACTION, INCLUDING CAUSES OF ACTION NOT LISTED BELOW, ARE RETAINED AGAINST ALL ENTITIES NOT EXPRESSLY RELEASED PURSUANT THE PLAN OR A FINAL ORDER IN THEIR CAPACITIES AS SUCH.

IN THE EVENT OF ANY APPARENT INCONSISTENCY BETWEEN THE RELEASES OF ENTITIES IN THEIR CAPACITIES AS SUCH PURSUANT TO THE PLAN OR A FINAL ORDER AND THE ATTACHED LIST, SUCH RELEASES GRANTED PURSUANT TO THE PLAN OR FINAL ORDER SHALL GOVERN.

Categories:

1. Causes of Action as asserted or may be asserted in ongoing litigation pending to which the Debtor, the Estate or the Trustee is a party in any court;
2. Causes of Action against cattle sellers, vendors of goods or services, or other parties for damages or recovery of overpayments, back charges, duplicate payments, improper holdbacks, deposits, warranties, guarantees, indemnities; setoff; wrongful or improper termination, suspension of services or supply of goods, or failure to meet other contractual or regulatory obligations;
3. Causes of Action against any party that owes or that may in the future owe money to the Debtor, the Estate or Trustee, pre- or post confirmation of the Plan, whether on account of accounts receivable, promissory note or otherwise, regardless of whether such entity is explicitly identified in this Exhibit C and any amendments thereto, and all Causes of Action against or related to all entities that assert or may assert that the Debtor of the Estate, pre- or post consummation of the Plan, owe money to them;
4. Causes of Action against local, state, and federal taxing authorities for refunds of overpayments or other payments;
5. Causes of Action against attorneys, accountants, consultants or other professional service providers relating to services rendered;
6. Contract, tort or equitable Causes of Action that may exist or subsequently arise;
7. Causes of Action of the Debtor arising under section 362 of the Bankruptcy Code;
8. Equitable subordination Causes of Action arising under section 510 of the Bankruptcy Code or other applicable law;
9. Turnover Causes of Action arising under sections 542 or 543 of the Bankruptcy Code; and
10. Causes of Action arising under (i) chapter 5 of the Bankruptcy Code, including preferences under section 547 and fraudulent transfers under section 548 of the Bankruptcy Code, and (ii) all comparable fraudulent transfer or related Causes of Action under applicable state law.

[A non-exhaustive list of non-released parties also identifying non-exhaustive categories of potential causes of action to be filed as an amended Exhibit C to this First Amended Plan]